



MINUTES

Executive Board

**Seventh Meeting
2013 Interim
December 16, 2013**

**Room 413
State Capitol
Pierre, South Dakota**

The seventh 2013 interim meeting of the Legislative Research Council Executive Board was called to order by Chair Ryan Maher at 11:38 a.m. (CST), December 16, 2013, in Room 413 of the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Senators Corey Brown, Phyllis Heineman, Larry Lucas, Ryan Maher (Chair), Deb Peters (via telephone), Deb Soholt, and Craig Tieszen; and Representatives Lance Carson (Vice Chair), Brian Gosch (via telephone), Spencer Hawley (via telephone), Charles Hoffman, Isaac Latterell, Betty Olson, Kathy Tyler, and Steven Westra.

Staff members present included Fred Schoenfeld, Interim LRC Director; Reuben Bezpaletz, Chief Analyst for Research and Legal Services; Doug Decker, Code Counsel; and Traci Thompson, Legislative Secretary.

For the purpose of continuity, these minutes are not necessarily in chronological order. Also, all material distributed at the meeting is attached to the original minutes on file in the Legislative Research Council (LRC). This meeting was web cast live. The archived web cast is available at the LRC web site at <http://legis.sd.gov> under "Interim – 2013 – Agenda, Minutes and Documents."

The Personnel Subcommittee met at 8:30 a.m. in Room 499. The Operations Subcommittee met at 11:00 a.m. in the LCR 2.

Approval of Minutes

REPRESENTATIVE HOFFMAN MOVED, SECONDED BY REPRESENTATIVE CARSON, THAT THE MINUTES OF THE NOVEMBER 18 AND 19, 2013, MEETING BE APPROVED. The motion prevailed on a voice vote.

Approval of Agenda

SENATOR OLSON MOVED, SECONDED BY REPRESENTATIVE CARSON TO REMOVE THE EB-5 DISCUSSION FROM THE AGENDA.

Representative Lance Carson cautioned that any discussion on EB-5 by the Legislature during the investigation by the federal government would be premature and, if a trial were to take place or charges filed, it could cause major ramifications for the Legislature.

Representative Kathy Tyler said that she was very disappointed in the motion and believes that it is the state's responsibility to monitor the EB-5 program and was disappointed that the executive board was choosing to ignore the discussion.

Senator Phyllis Heineman stated that she felt it would be best to see where the Legislature fit in after the information and evidence from the investigations come forward, especially since Legislative Audit is involved.

Senator Craig Tieszen agreed that now is not the time for the Legislature to get involved due to the investigations that are taking place, but believes that this is a legislative matter and that it does need to be reviewed, not only to uncover what happened in the past, but to protect us from future incidence.

Senator Larry Lucas said that he does feel like the Legislature shouldn't jump into the criminal proceedings, but does know that \$550,000 went the wrong way and would like to start an investigation into where it might be so that the money doesn't disappear, but can be returned to the State of South Dakota.

Senator Corey Brown stated that it was definitely a legislative issue, but it would be pure speculation at this point to try to determine what needs to be done until the investigations are concluded.

Representative Brian Gosch invited Representative Tyler to present to the Executive Board, in an email or by mail, any new information that she may have that hasn't been determined by the federal investigators.

Representative Isaac Latterell mentioned the upcoming Legislative Session being a more appropriate platform to discuss the issue of EB-5.

Senator Olson's motion prevailed on a voice vote.

Representative Tyler requested a roll call vote. **Chair Ryan Maher** stated that the motion to request a roll call vote was made too late which caused the motion to be denied.

Management Team Reports

Administration

Mr. Fred Schoenfeld, Interim Legislative Research Council Director, stated that Session preparation is on track with renovations being done, new audio visual equipment has been installed in rooms 423 and 464, and new chairs would be delivered to room 423 this week. He went on to say that he was advised that the Page and Intern Program was going well. Session staff has been hired and the new Legislative Research Council employees are getting settled in. Mr. Schoenfeld said that he was working with the presiding officers on the appointments for the Joint Select and Standing Committees and was offering support to the Personnel Subcommittee with regard to hiring a permanent Director.

Fiscal and Budget Services

Mr. Schoenfeld stated that the Legislative Research Council Agency Budget for Fiscal Year 2014 Year to Date Expenditures (**Document 1**) written by Ms. Ann Mehlhaff was on-track. There has been a pay-out to former Director Jim Fry that has bumped up some of the expenditures. Ms. Mehlhaff has spent quite a bit of effort in support of the Joint Committee on Appropriations. The budget call has been sent out and new agency assignments have been made for the fiscal staff, including cross-training and backup in case of emergency. There has been a new plan and schedule for the Appropriations Committee with regard to Agency Budget Hearings that will be unveiled later.

Code Counsel

Mr. Doug Decker, Code Counsel, discussed the confidentiality concerns that were brought up by the National Conference of State Legislatures (NCSL). After discussions with the Attorney General's Office, Mr. Decker formed a rough draft Confidentiality Agreement between the Legislative Research Council (LRC) and the Bureau of Information and Telecommunications (BIT) to address those concerns (**Document 2**). The Confidentiality Agreement is modelled after a similar agreement between the Attorney General's Office and BIT after similar confidentiality issues had been raised within the Attorney General's Office and separate computer systems and separate staff proved too expensive to maintain.

Research and Legal Services

Mr. Reuben Bezpaletz, Chief Analyst for Research and Legal Services, stated today is the first day for pre-filing bills. He mentioned with the Domestic Abuse Study and the Education Funding Formula Study that was done in the Interim, there would be a fair number of bills pre-filed. He also mentioned that agency bills started coming in about ten days ago. Although only a small percentage has come in, each one that does come in before Christmas is appreciated. With regard to hiring committee secretaries to help proof pre-filed bills, it was determined more beneficial to have the new staff attorney, Roxanne Hammond, look over the bills, checking not only for typographical errors and grammar issues, but also being used as a learning opportunity for her to see how bills are written. With regard to the fiscal note situation, Mr. Bezpaletz is in the process of organizing a meeting for Wednesday December, 18th with individuals interested in facilitating better corrections fiscal notes. Mr. Bezpaletz said that he was in the process of writing some protocols and methodologies so that if there is an agreement, application of these methodologies, which are happening in other states, can be applied. Mr. Bezpaletz made note that there would normally be around 200 bills in the system at this point. However, currently there are 310 bills in the system, which could indicate heavy bill-flow this year. He went on to say that he opposed the three-day rule. He understood that changes at this time could not be made and that calendars had been set, but if Legislators were encouraged to get bills in earlier, it would greatly help the staff.

Senator Brown responded by asking from a staff prospective, if there would be a recommendation that could help the situation.

Mr. Bezpaletz responded by saying he would like to see the leadership and the caucus leaders stress the importance of having legislators get their bills introduced earlier so bills can be considered no later than the third week.

Senator Lucas asked if it would be possible to turn in signatures electronically to make it easier to pre-file bills.

Mr. Bezpaletz responded by saying that he would not want to get rid of the sign-up sheet, but in the interest of making it easier to pre-file a bill or for a quick introduction, the staff would be willing to take the sponsor at his word without a signature as long as the prime sponsor takes responsibility for those listed.

Board Action

Permanent LRC Personnel Policy

Senator Tieszen stated that the Operations Subcommittee had met earlier in the day to review the LRC Personnel Policy Manual and agreed that both the Mission Statement and the Services We Provide sections need further consideration. The committee resolved that the changes would not be major but decided that streamlining the Mission Statement and further itemizing the Services We Provide sections would be beneficial. The subcommittee agreed the manual should be reviewed annually at the beginning of each fiscal year. The subcommittee wanted to address a few typographical errors on page 5 and proposed to remove Example 6 under the Harassment Policy. Senator Tieszen felt that great strides were made and the document was usable for both staff and Legislators and would be made public on the website. Senator Lucas questioned the absence of a timeframe for dealing with complaints on personnel issues.

Mr. Decker stated that the timeframe was left out of the manual because that is governed by federal law.

SENATOR TIESZEN MOVED, SECONDED BY REPRESENTATIVE WESTRA THAT THE PERSONAL POLICY MANUAL BE ADOPTED AS PRESENTED WITH THE EXCEPTION OF DELETING EXAMPLE 6 ON PAGE 5 AND CORRECTING MISCELLANEOUS TYPOGRAPHICAL ERRORS AND WITH THE PROVISION THAT THIS EMPLOYEE MANUAL BE REVIEWED ON AN ANNUAL BASIS AT THE BEGINNING OF EACH FISCAL YEAR. The motion prevailed unanimously on a roll call vote with 15 voting AYE. Those voting AYE: Brown, Heineman, Lucas, Peters, Soholt, Tieszen, Gosch, Hawley, Hoffman, Latterell, Olson, Tyler, Westra, Carson, and Maher.

Executive Session

REPRESENTATIVE CARSON MOVED, SECONDED BY REPRESENTATIVE WESTRA, THAT THE EXECUTIVE BOARD GO INTO EXECUTIVE SESSION. The motion prevailed on a voice vote.

The Executive Board recessed at 1:23 p.m. and went into Executive Session.

REPRESENTATIVE CARSON MOVED, SECONDED BY REPRESENTATIVE TYLER, THAT THE EXECUTIVE BOARD COME OUT OF EXECUTIVE SESSION. The motion prevailed on a voice vote.

The Executive Board came out of Executive Session at 2:32 p.m.

Board Action

Search for Permanent Executive Director

At this time, **SENATOR BROWN MOVED, SECONDED BY SENATOR SOHOLT, TO APPOINT A SEARCH COMMITTEE COMPRISED OF FOUR LEGISLATORS THAT WOULD INCLUDE SENATOR SOHOLT, SENATOR TIESZEN, REPRESENTATIVE HAWLEY, AND REPRESENTATIVE WESTRA; IN ADDITION, WE WOULD INSTRUCT THOSE INDIVIDUALS TO IDENTIFY ONE OTHER PERSON OUTSIDE THE LEGISLATURE, FROM THE CORPORATE WORLD, TO SERVE WITH THOSE INDIVIDUALS ON THE SEARCH COMMITTEE. THOSE FIVE INDIVIDUALS WOULD BE THE VOTING MEMBERS OF THAT SEARCH COMMITTEE. IN ADDITION, THERE WOULD BE TWO NON-VOTING MEMBERS WHOSE PURPOSE WOULD BE TO PROVIDE INPUT AND PERSPECTIVE. THOSE TWO MEMBERS WHO WOULD PROVIDE THAT GUIDANCE WOULD BE FRED SCHOENFELD AND REUBEN BEZPALETZ FROM THE STAFF. MR. SCHOENFELD WOULD BE THE NOMINAL CHAIRPERSON OF THAT COMMITTEE.**

THE FIRST TASK FOR THIS COMMITTEE WOULD BE TO ENGAGE WITH DIRECTOR SCHOENFELD IN TRYING TO IDENTIFY POTENTIAL RECRUITING/CANDIDATE SEARCH FIRMS AND TO GET SEVERAL PROPOSALS OR IDENTIFY PROPOSALS THEY THINK ARE BEST AND TO IDENTIFY THE COSTS.

THE SECOND TASK OF THIS COMMITTEE WOULD BE TO ESTABLISH THE JOB DESCRIPTION AND CRITERIA FOR THE JOB OF THE EXECUTIVE DIRECTOR.

THE COMMITTEE WOULD THEN BRING THEIR FINDINGS BACK TO THE ENTIRE EXECUTIVE BOARD BY JANUARY 13, 2014. The motion prevailed unanimously on a roll call vote with 15 voting AYE. Those voting AYE: Brown, Heineman, Lucas, Peters, Soholt, Tieszen, Gosch, Hawley, Hoffman, Latterell, Olson, Tyler, Westra, Carson, and Maher.

Additional Issue Memoranda

In addressing the Additional Issue Memoranda (**Document 3**), Mr. Schoenfeld reminded the Executive Board there were, after the previous board meeting, two issues that needed to be addressed, the Common Core State Standards (**Document 4**) and the Capacity of Township and Secondary Roads. The Common Core State Standards Memorandum was authored by Clare Charlson, with the secondary author being Ms. Annie Mehlhaff.

Senator Heineman had a contingency question on page 3 and said that she would prefer to get answers before voting to accept the document. With both authors being unavailable to answer questions today, Mr. Schoenfeld said it would be acceptable if the board would prefer to delay acceptance of the document until a later time and take it off the table.

Regarding the Capacity of Township and Secondary Roads, Mr. Schoenfeld stated that a memorandum has not been authored due to the fact that the primary data needed exceeds

the scope of this effort and the secondary data needed simply does not exist. For these reasons, there has been no quick-fix solution to generate the requested issue memorandum.

Legislation Moving Deadline for Submittal of Budget to Legislature

Mr. Schoenfeld addressed the issue of the proposed legislation pertaining to the Governor's Annual Budget Submittal (**Document 5**) that Ms. Mehlhaff brought forth previously to allow additional time to provide fiscal budget analyses. Mr. Schoenfeld informed the board that the date has been changed as requested, while the rest of the draft remains unchanged.

REPRESENTATIVE CARSON MOVED, SECONDED BY SENATOR HEINEMAN TO ADOPT 588V0134, AN ACT TO REVISE CERTAIN PROVISIONS RELATED TO THE ANNUAL BUDGET REPORT SUBMISSION. The motion prevailed on a roll call vote with 12 voting AYE, 3 EXCUSED. Those voting AYE: Brown, Heineman, Peters, Sohlt, Gosch, Hoffman, Latterell, Olson, Tyler, Westra, Carson, and Maher. Those EXCUSED: Lucas, Tieszen, and Hawley.

Joint Powers Confidentiality Agreement with BIT

Mr. Schoenfeld reminded the Board that this was the issue that was brought forward earlier by Mr. Decker regarding the Joint Powers Confidentiality Agreement that was drafted. Mr. Schoenfeld stated that at this point, with the Agreement in draft form, the Legislative Research Council was looking for concurrence from the Board to move forward with this effort.

REPRESENTATIVE TYLER MOVED, SECONDED BY REPRESENTATIVE LATTERELL TO AUTHORIZE THE LEGISLATIVE RESEARCH COUNCIL TO PROCEED WITH THE JOINT POWERS CONFIDENTIALITY AGREEMENT BETWEEN THE LEGISLATIVE RESEARCH COUNCIL AND THE BUREAU OF INFORMATION AND TELECOMMUNICATIONS. The motion prevailed on a voice vote.

Approval of Printing Contract

The Legislative Printing Contract (**Document 6**) for Bills, Resolutions and Journals was presented by Mr. Schoenfeld. He stated that this was the standard contract that has been used previously and there had only been one bid for the contract.

REPRESENTATIVE CARSON MOVED, SECONDED BY REPRESENTATIVE HOFFMAN TO APPROVE THE LEGISLATIVE PRINTING CONTRACT. The motion prevailed on a roll call vote with 12 voting AYE, 3 EXCUSED. Those voting AYE: Brown, Heineman, Peters, Sohlt, Gosch, Hoffman, Latterell, Olson, Tyler, Westra, Carson, and Maher. Those EXCUSED: Lucas, Tieszen, and Hawley.

Next Meeting Date and Adjournment

The Board set its next meeting date for 3:00 p.m. on Monday, January 13, 2013.

REPRESENTATIVE CARSON MOVED, SECONDED BY REPRESENTATIVE WESTRA, THAT THE EXECUTIVE BOARD BE ADJOURNED. The motion prevailed on a voice vote.

The Executive Board adjourned at 3:03 p.m.



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